

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 18, 20-31 and 40-42 are pending in the application, with claim 18 being the independent claim. Claims 19, and 32-34 are sought to be canceled. New claims 40-42 are sought to be added. Support for new claims 40-42 can be found, for example, in scheme 7, on page 31 of the originally filed specification. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Information Disclosure Statement

At the request of the Examiner, Applicants submit copies of documents AS3, AT10, AS11 and AT11, that were lined out on form PTO-1449 submitted on August 20, 2004. Applicants are unable to locate document AR11, an English translation of document AM2, that was submitted on August 20, 2004. However, document AM2 is submitted herewith. A copy of form PTO-1449, submitted on August 20, 2004 is re-submitted with this Reply. The Examiner is requested to initial and return a copy of form PTO-1449 and indicate in the official file wrapper that the documents submitted herewith have also been considered.

Applicants acknowledge the error in citing document AS5 in the Information Disclosure Statement filed on August 20, 2004. Document AS5 is now correctly cited in the enclosed PTO-1449.

Summary of Interview

Applicants thank the Examiner for the interview on October 10, 2007 and for withdrawal of the Restriction Requirement issued on September 10, 2007. The new Restriction Requirement agreed to during the interview was as follows:

Group I Claims 18-23, drawn to Formula III compounds where R7-R6 taken together are any of the groups recited in claim 19.

Group II. Claims 18-21 and 23, drawn to all other compounds of formula III.

Group III. Claims 24-34, drawn to pharmaceutical methods using Group I.

Group IV. Claims 24-34, drawn to pharmaceutical methods using Group II.

Applicants thank the Examiner for a telephone call on February 21, 2008. Applicants enquired when an action on the merits of the application would be issued. The Examiner informed the Applicant that an action would be forthcoming.

Restriction Requirement

Applicants affirm the election of Group I with **traverse**. The amended claims are all directed to compounds of Group I wherein R_6 and R_7 taken together are any of the groups recited in claim 19. Claims 18, 20-31 and 34-42 are directed to the elected invention.

The criteria for a proper requirement for restriction are that (1) the inventions must be independent or distinct as claimed; *and* (2) there must be a serious burden on the Examiner if restriction is not required. M.P.E.P. § 803 (emphasis added). The two requirements for restriction set forth in M.P.E.P. § 803 are connected with "and." Accordingly, satisfaction of both criteria is required for a proper restriction requirement.

The claims of Group III are directed to a method of using the compounds of Group I. Because searching groups I and III would involve searching the same class of compounds, there is no serious burden placed on the Examiner to examine groups I and III together. Moreover, the Examiner has not shown by appropriate explanation that a serious burden will exist if restriction were not required. Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

Even if the restriction between Group I and Group III were proper, Groups I and III should be rejoined once the Examiner finds that Group I is allowable. Under MPEP §821.04, where elected claims are found allowable, withdrawn claims that require all the limitations of an allowable claim will be rejoined and fully examined for patentability. Rejoinder of groups I and III is respectfully requested. Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

Rejections under 35 U.S.C. § 102

Claim 19 was rejected under 35 U.S.C. § 102(b) over Haider, *Heterocycles*, 41: 2519-25, (1995). The Haider reference allegedly describes, among other things, the

compounds RN 173463-57-5, 1H-cyclopenta[g]phthalazin-1-one, 2,6,7,8-tetrahydro-4-phenyl-; and RN 173463-59-7, benzo[g]phthalazin-1-(2H)-one, 6,7,8,9-tetrahydro-4-phenyl-. The rejection is traversed.

The claimed compounds are different from the compounds disclosed in the Haider reference. The Haider reference describes 2H-phthalazinones, *i.e.*, compounds that contain a hydrogen at the 2-position of the phthalazinone ring. The claimed compounds do not contain a hydrogen at the 2-position of the phthalazinone ring, *i.e.*, R₁ can not be hydrogen in the present claims.

Moreover, the compounds pointed out by the Examiner in the Haider reference are only described as intermediates for the synthesis of other compounds, there is no mention of any utility for the 2H-phthalazinone compounds. By contrast, the claimed compounds are modulators of the AMPA receptor. Thus, there would be no reason for one of ordinary skill in the art to modify the compounds of Haider to include any additional substituents, including substituents at the 2-position.

Withdrawal of the rejection and reconsideration of all pending claims is respectfully requested.

Conclusion

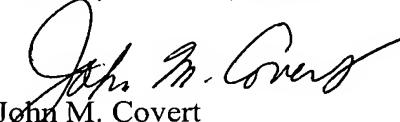
All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for

allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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